

**REMARKS**

Favorable reconsideration and allowance of this application are requested.

Claims 1-20 as presented with the Preliminary Amendment dated July 20, 2006 remain pending herein for consideration. No further amendments have been proffered.

**1. Response to 35 USC §103(a) Issues**

Claims 1-7 and 10-18 attracted a rejection under 35 USC §103(a) as allegedly unpatentable over Marissen et al (US 2006/0135958, hereinafter referenced as "Marrissen et al '958 publication"), while claims 8-9 and 19-20 attracted a rejection under the same statutory provision as allegedly unpatentable over Marrissen et al in view of Peterson (USP 7,033,379). Applicants suggest that such rejections are inappropriate for the following reasons.

In this regard the applicants note that the Marrissen et al '958 publication and the present application are owned by the same entity, namely DSM IP Assets BV ("DSM"). Moreover, such inventors were under an obligation to assign each application to DSM at the time each invention was made. As evidence of these facts, the Examiner's attention is directed to the assignment recorded at Reel 018300/Frame 0962 against the above-identified application and at Reel 017640/0682 against the Marissen et al '958 publication.

The subject application is of course the US national phase entry under 35 USC §371 of International Application PCT/EP2005/000935 which was filed on January 27, 2005 designating the United States and published in the English language under Article 21(2) as WO 2005/074826 on August 15, 2005. Thus, the subject application is entitled to the filing date of January 27, 2005 accorded to the International Application PCT/EP2005/000935

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March 27, 2009

Thus, the Marrissen et al publication qualifies as "prior art" *only* under 35 USC §102(e). Under these circumstances, therefore, Marrissen et al is statutorily *disqualified* as a reference against the subject application under 35 USC §103(c).

Withdrawal of the rejections of record based on the Marrissen et al '958 publication and early passage of the subject application to issuance are therefore solicited.

## **2. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

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